

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
Angela M. Mazzaelli
Richard T. Andrias
David B. Saxe, Justices.

-----X
Isabella Ayoub,
Plaintiff-Respondent,

-against-

M-1337X
Index No. 305392/08

Joseph Ayoub,
Defendant-Appellant.
-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about September 25, 2009 (mot. seq. no. 008),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" March 15, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
Angela M. Mazzarelli
Richard T. Andrias
David B. Saxe, Justices.

-----X
Kmar Harris,
Plaintiff-Respondent,

-against-

M-1369X
Index No. 303144/07

Errol G. Hamilton, Joseph A. Davis,
II and Tanya R. Davis,
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about August 14, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" March 16, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
Angela M. Mazzairelli
Richard T. Andrias
David B. Saxe, Justices.

-----X
Merrill Lynch International
Finance Incorporated,
Plaintiff-Respondent,

-against-

Chadwick Collins,
Defendant-Appellant.

M-1347
Index No. 601997/09

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about October 21, 2009,

Now, upon reading and filing the stipulation of the parties hereto, filed March 15, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the February 2010 Term, is withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Karla Moskowitz
Helen E. Freedman
Rosalyn H. Richter
Nelson S. Román, Justices.

-----X
Christopher Sinsheimer, an infant by
his mother and natural guardian Brenda
Sinsheimer and Brenda Sinsheimer,
individually,

Plaintiffs-Appellants,

M-885
Index No. 116380/04

-against-

Barbara Landreth, M.D.,
Defendant-Respondent.

-----X

Defendant-respondent having moved for dismissal of the appeal taken from the order of the Supreme Court, New York County, entered on or about October 6, 2008 (mot. seq. no. 006),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted and the appeal is dismissed.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Karla Moskowitz
Helen E. Freedman
Rosalyn H. Richter
Nelson S. Román, Justices.

-----X

The People of the State of New York,

Respondent,

-against-

M-765
Ind. No. 6284/08

Alo Ablakatov,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about December 9, 2009, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, Karen M. Funk, Esq., the amount and sources of funds for trial counsel's fee and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
David Friedman
James M. McGuire
Sheila Abdus-Salaam, Justices.

-----X

The People of the State of New York,

Respondent,

-against-

M-865

Ind. No. 1778/09

Moises Betancourt,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about January 20, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$5,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
David Friedman
James M. McGuire
Sheila Abdus-Salaam, Justices.

-----X

The People of the State of New York,

Respondent,

-against-

M-867

Ind. No. 6002/06

Ian Cole,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about January 18, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$25,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Karla Moskowitz
Helen E. Freedman
Rosalyn H. Richter
Nelson S. Román, Justices.

-----X
In the Matter of the Application of
Zenaida Reyes-Arguelles, M.D.
Petitioner-Appellant,

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

M-645
Index No. 113530/09

Richard F. Daines, Commissioner of
the New York State Department of
Health and the New York State
Department of Health,
Respondents-Respondents.

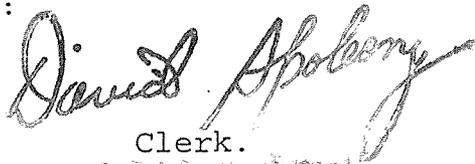
-----X

Petitioner-appellant having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about December 23, 2009 (mot. seq. no. 001),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, and the interim relief granted by an order of a Justice of this Court, dated February 5, 2010, is hereby vacated.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzairelli
Eugene Nardelli
Rolando T. Acosta
Nelson S. Román, Justices.

-----X
AJW Partners LLC, et al.,

Plaintiffs-Respondents,

-against-

M-392
Index No. 602987/08

Itronics Inc., et al.,

Defendants-Appellants.
-----X

Defendants-appellants having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 17, 2009 (Appeal No. 1828),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzairelli
Richard T. Andrias
John W. Sweeny, Jr.
James M. McGuire, Justices.

-----X
The People of the State of New York,
Respondent,

-against-

M-5308
Ind. No. 12241/92

Diane Word,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on September 27, 2007 (Appeal No. 8908), unanimously affirming a judgment of the Supreme Court, New York County (Harold Beeler, J.), rendered on November 5, 1999,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate counsel, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that said application is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Eugene Nardelli
James M. McGuire
Karla Moskowitz, Justices.

-----X
In the Matter of City Services, Inc.,
Arnold Lasker, Barry Alper,
Petitioners-Appellants,

For a Judgment Pursuant to Article 78
of the CPLR

-against-

M-1489
Index No. 117090/09

Richard H. Neiman, Superintendent of
Banks, etc.,
Respondent-Respondent.

-----X
Petitioners-appellants having moved for an order staying the revocation of a temporary check cashing license (CC 4860) pending hearing and determination of the appeal from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about March 17, 2010,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of staying expiration/revocation of the temporary license on condition the appeal is perfected on or before July 12, 2010 for the September 2010 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided that respondent-respondent serves a copy of this order upon appellants within 10 days after the date of entry hereof.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Eugene Nardelli
James M. McGuire
Karla Moskowitz, Justices.

-----X
In the Matter of the Application of

Mercedes Casado, et al.,
Petitioners-Respondents,

M-1072

M-1619

-against-

Index No. 402267/08

Marvin Markus, as Chair of the
New York City Rent Guidelines Board,
Respondent-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about February 2, 2010,

And petitioners-respondents having moved for an order vacating the automatic stay asserted by respondent-appellant pursuant to CPLR 5519(a)(1), or for alternative relief (M-1072),

And respondent-appellant having cross-moved for an order declaring that an automatic stay of the aforesaid judgment is in existence pursuant to CPLR 5519(a)(1), or for alternative relief (M-1619),

Now, upon reading and filing the papers with respect to the motion and cross motion, and due deliberation having been had thereon, it is

Ordered that petitioners-respondents' motion (M-1072) is granted to the extent of declaring that no stay of the judgment on appeal pursuant to CPLR 5519(a)(1) is in effect. Respondent-appellant's cross motion (M-1619) is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
James M. McGuire
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Henry Reyes, an infant by his mother
and natural guardian, Lesley Echevarria
Ortiz, and Lesley Echevarria Ortiz,
individually,
Plaintiffs-Appellants,

M-1105
Index No. 6407/04

-against-

2328 Uniave Corp., et al.,
Defendants,

St. Barnabas Hospital,
Defendant-Respondent.

-----X
(And a third-party action)
-----X

An appeal having been taken from the judgment of the Supreme Court, Bronx County, entered on or about August 11, 2008,

And an order of this Court having been entered February 9, 2010 (M-5428/M-5521), inter alia, dismissing the aforesaid appeal,

And plaintiffs having moved to renew and reargue the order of this Court entered February 9, 2010 (M-5428/M-5521),

Now, upon reading and filing the papers with respect to the motion and cross motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Peter Tom, Justice Presiding,
Eugene Nardelli
Dianne T. Renwick
Helen E. Freedman, Justices.

-----X
JFK Holding Company, LLC, et al.,

Plaintiffs-Respondents,

-against-

M-791
Index No. 110582/08

City of New York, et al.,

Defendants-Appellants.
-----X

Plaintiffs-respondents having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 8, 2009 (Appeal No. 1675),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Peter Tom, Justice Presiding,
Eugene Nardelli
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Sarit Shmueli,

Plaintiff-Respondent,

-against-

M-74
Index No. 104824/03

NRT New York, Inc., doing business as
The Corcoran Group,

Defendant-Appellant.
-----X

Plaintiff-respondent having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 8, 2009 (Appeal No. 1680),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David B. Saxe
James M. McGuire
Sallie Manzanet-Daniels, Justices.

-----X

Arbor Leasing, LLC,

Plaintiff-Respondent,

-against-

M-287

Index No. 603151/06

BTMU Capital Corporation, etc.,

Defendant-Appellant.

-----X

Plaintiff-respondent having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 17, 2009 (Appeal No. 1803),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David B. Saxe
James M. McGuire
Sallie Manzanet-Daniels, Justices.

-----X
Frank Bettis,
Plaintiff-Appellant,

-against-

M-590
Index No. 112234/07

Raymond Kelly, as Police Commissioner
of the New York City Police Department,
et al.,
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 17, 2009 (Appeal No. 1800),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present: Hon. Peter Tom, Justice Presiding,
David B. Saxe
David Friedman
Eugene Nardelli
James M. Catterson, Justices.

-----X
In the Matter of a Family Offense
Proceeding under Article 8 of the
Family Court Act.

M-1199

M-1416

Basil D.,
Petitioner-Appellant,

Docket No. 030212/08

-against-

Wanda D.,
Respondent-Respondent.

-----X

An appeal having been taken from the order of the Family Court, Bronx County, entered on or about February 18, 2009, and said appeal having been perfected,

And respondent-respondent having moved by separate motions for an adjournment of the aforesaid appeal (M-1199), and for leave to respond as a poor person to said appeal, for the assignment of counsel, a free copy of the transcript, and for related relief (M-1416),

Now, upon reading and filing the papers with respect to the motions, and due deliberation having been had thereon,

It is ordered that the respondent's motion for an adjournment of the appeal (M-1199) is granted to the extent of adjourning the appeal to the September 2010 Term. Respondent's motion for poor person relief (M-1416) is granted to the extent of (1) assigning, pursuant to Article 18B of the County Law and § 1120 of the Family Court Act, Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, as counsel for purposes of responding to the appeal; (2) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorney for the appellant and 10 copies thereof are filed with this Court.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzarelli
Rolando T. Acosta
Leland G. DeGrasse
Rosalyn H. Richter, Justices.

-----X
The People of the State of New York,
Respondent,

-against-

M-1265
Ind. Nos. 5431N/03
8560/00

Alberto Polanco,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about May 25, 2005,

And an order of this Court having been entered on May 1, 2008 (M-1486), striking the assignment of Steven N. Feinman, Esq., as counsel on defendant's appeal, and substituting Mitchell Dranow, Esq., as such counsel while continuing the previously granted poor person relief,

And assigned counsel, Mitchell Dranow, Esq., having now moved to be relieved as counsel on defendant's appeal and to substitute new counsel for same,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of striking the designation of Mitchell Dranow, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, John Lewis, Esq., 36 Hemlock Drive, Sleepy Hollow, New York 10591, Telephone No. (914) 332-8629, as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later. (See M-944, decided simultaneously herewith.)

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzairelli
Rolando T. Acosta
Leland G. DeGrasse
Rosalyn H. Richter, Justices.

-----X
The People of the State of New York,

Respondent,

-against-

Alberto Polanco,

Defendant-Appellant.
-----X

M-944
Ind. Nos. 5431N/03
8560/00

Defendant-appellant having moved for leave to file a pro se supplemental brief in connection with the appeal from the judgment of the Supreme Court, New York County, rendered on or about May 25, 2005, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied as premature, the aforesaid appeal not having been perfected. (See M-1265, decided simultaneously herewith.)

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David Friedman
Eugene Nardelli
Rosalyn H. Richter, Justices.

-----X
Maninder Bhugra,
Plaintiff-Appellant/Appellant-
Respondent,

-against-

M-1412
Index No. 110825/07

Massachusetts Casualty Insurance
Company, et al.,
Defendants-Respondents,

Disability Management Services,
Defendant-Respondent/Respondent-
Appellant.
-----X

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about October 17, 2008, and an appeal and cross appeal having been taken from the order of said Court entered on or about December 11, 2008, respectively,

And an order of this Court having been entered January 14, 2010 (M-5688) [Corrected Order January 27, 2010], inter alia, denying a stay of proceedings in the Supreme Court,

And plaintiff having moved for renewal/reargument of the order of this Court entered on January 14, 2010 [Corrected Order January 27, 2010] (M-5688),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present: Hon. Peter Tom, Justice Presiding,
David B. Saxe
David Friedman
Eugene Nardelli
James M. Catterson, Justices.

-----X
The Law Firm of Ravi Batra, P.C.,
Plaintiff-Appellant,

-against-

M-1470
Index No. 100548/06

Amora Rachel Leah Rabinowich,
Defendant-Respondent.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 18, 2008, and said appeal having been perfected,

And defendant having moved to strike plaintiff's brief upon the ground, inter alia, that it references matters dehors the record, or for alternative relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted only to the extent of adjourning the appeal to the September 2010 Term, without prejudice to respondent addressing the issues regarding the propriety of appellant's brief in respondent's brief. The motion is otherwise denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David Friedman
Eugene Nardelli
Rosalyn H. Richter, Justices.

-----x
Maninder Bhugra,
Plaintiff-Appellant/Appellant-
Respondent,

-against-

M-2134
Index No. 110825/07

Massachusetts Casualty Insurance
Company, et al.,
Defendants-Respondents,

Disability Management Services,
Defendant-Respondent/Respondent-
Appellant.

-----x

An appeal and cross appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about October 17, 2008; and an appeal having been taken from the order of said Court and entered on or about December 11, 2008, respectively,

And this Court, on January 27, 2010, having enlarged the time in which to perfect plaintiff's appeals to on or before March 22, 2010, for the June 2010 Term, with no further enlargements to be granted,

And plaintiff, having failed to perfect the appeals as to Defendant-Respondent Zurich Insurance Company on or before March 22, 2010,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the appeal as to Defendant-Respondent Zurich Insurance Company is dismissed.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Angela M. Mazzairelli, Justice Presiding,
David B. Saxe
Eugene Nardelli
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----x
Arnav Industries, Inc.,

Plaintiff-Appellant,

-against-

M-843
Index No. 602491/06

Jody Pitari,

Defendant-Respondent.
-----x

Appeals having been taken to this Court from orders of the Supreme Court, New York County, entered on or about March 31, 2009 and December 17, 2009, respectively,

And plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order entered on or about March 31, 2009,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted and the appeal from the order entered on or about March 31, 2009 is enlarged to the September 2010 Term. Sua sponte, the appeal from the order entered on or about December 17, 2009 is dismissed.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
Eugene Nardelli
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----X
Ralph Hall,
Petitioner,

M-732
Index No. 407110/07

-against-

Jacoby and Meyers Law Offices, Inc.,
et al.,
Respondents.

-----X

An order of this Court having been entered September 1, 2009 (M-2058), denying petitioner leave to prosecute, as a poor person, a purported appeal from an unidentified order of the Supreme Court, New York County; leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

And petitioner having moved for reconsideration of said order of this Court entered September 1, 2009 (M-2058),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied and, sua sponte, the purported appeal is dismissed.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
James M. Catterson
Karla Moskowitz
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Lon Silvers, etc.,

Claimant-Appellant-Respondent,

-against-

M-677
Claim No. 110663

State of New York, et al.,

Defendants-Respondents-Appellants.

-----X

Claimant-appellant-respondent having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 29, 2009 (Appeal No. 1890),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. Angela M. Mazzairelli, Justice Presiding,
David Friedman
Eugene Nardelli
Dianne T. Renwick
Nelson S. Román, Justices.

-----X

Fron Nahzi, etc.,

Plaintiff-Respondent,

-against-

M-518
Index No. 112000/06

Gerald Lieblich, et al.,

Defendants-Appellants.

-----X

Defendants-appellants having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on January 7, 2010 (Appeal No. 1941),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
Eugene Nardelli
John W. Sweeny, Jr.
James M. McGuire, Justices.

-----X
The People of the State of New York,
Respondent,

-against-

Tommy Barnes, also known as Thomas Barnes,
Defendant-Appellant.

M-5294
Ind. Nos. 1325/04
4118/04

-----X

A decision and order of this Court having been entered on December 5, 2006 (Appeal Nos. 9726 & 9726A), unanimously affirming a judgment of the Supreme Court, New York County (Gregory Carro, J.), rendered on January 14, 2005,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate counsel, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that said application is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. David B. Saxe, Justice Presiding,
James M. Catterson
Karla Moskowitz
Helen E. Freedman
Nelson S. Román, Justices.

-----x
Rochelle Schechter,
Plaintiff-Respondent, M-928
-against- Index No. 123520/02

UVI Holdings, Inc., et al.,
Defendants-Respondents.

UVI Holdings, LLC,
Third-Party Plaintiff-Respondent,
-against- Index No. 590413/05

Nabil Abdullah, et al., etc.,
Third-Party Defendants-Respondents.

Nabil Abdullah, et al., etc.,
Fourth-Party Plaintiffs-Respondents,
-against- Index No. 590769/05

Centurion Insurance Company, etc.,
Fourth-Party Defendant-Appellant.
-----x

Fourth-party defendant-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about November 20, 2008 (mot. seq. no. 004),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the September 2010 Term.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present - Hon. David B. Saxe, Justice Presiding,
John W. Sweeny, Jr.
Karla Moskowitz
Rosalyn H. Richter, Justices.

-----X
Barry Jacobson, et al.,
Plaintiffs-Appellants,

-against-

McNeil Consumer & Specialty
Pharmaceuticals, etc., et al.,
Defendants,

M-625
Index No. 105923/06

G.D. Searle & Co., et al.,
Defendants-Respondents.
-----X

Defendants-respondents having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 29, 2009 (Appeal No. 1128N),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk.....

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on April 15, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
James M. McGuire
Rolando T. Acosta
Dianne T. Renwick, Justices.

-----X
The People of the State of New York,
Respondent,

-against-

M-716
Ind. No. 4097/02

Kevin Brown,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about January 19, 2010, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings before Judge Conviser, if any. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

Present: Hon. David Friedman, Justice Presiding,
John W. Sweeny, Jr.
Leland G. DeGrasse
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Keith Hughey, et al.,
Plaintiffs-Respondents,

-against-

M-946

M-1062

RHM-88, LLC,
Defendant-Respondent,

Index No. 115793/04

Pritchard Industries, Inc.,
Defendant-Respondent-Appellant,

One United Nations Plaza Condominium,
Defendant-Appellant-Respondent,

John Doe #1 through #5,
Defendants.

-----X
RHM-88, LLC,
Third-Party Plaintiff-Respondent,

-against-

Third-Party
Index No. 590046/06

United Nations Development Corporation,
Third-Party Defendant-Cross-Respondent.

-----X
One United Nations Plaza Condominium,
Second Third-Party Plaintiff-
Appellant-Respondent,

-against-

Second Third-Party
Index No. 591098/06

Cushman & Wakefield, Inc.,
Second Third-Party Defendant-
Respondent-Appellant.

-----X

-----X
 United Nations Development Corporation,
 Fourth-Party Plaintiff-Cross-
 Respondent,

-against-

Fourth-Party
Index No. 590355/06

Cushman & Wakefield, Inc.,
 Fourth-Party Defendant-Respondent-
 Appellant.

-----X
 United Nations Development Corporation,
 Second Fourth-Party Plaintiff-Cross-
 Respondent,

-against-

Second Fourth-Party
Index No. 591127/06

Pritchard Industries, Inc.,
 Second Fourth-Party Defendant-
 Respondent-Appellant.

-----X

An appeal and cross appeals having been taken from the order of the Supreme Court, New York County, entered on or about April 15, 2009, and said appeals having been perfected upon a joint appendix on appeal,

And defendant/second fourth-party defendant Pritchard Industries (M-946) and second third-party/fourth-party defendant Cushman & Wakefield, Inc., (M-1062) having moved for an enlargement of time in which to perfect their respective appeals,

Now, upon reading and filing the papers with respect to the motions, and due deliberation having been had thereon, it is

Ordered that the motions are granted to the extent of adjourning the appeal and cross appeals to the September 2010 Term.

ENTER:


 Clerk.

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST JUDICIAL DEPARTMENT

Before: Hon. David Friedman
Justice of the Appellate Division

-----X
In the Matter of

Janay O.,

M-823

Docket No. D-3476/09

A Person Alleged to be a Juvenile
Delinquent,
Respondent.

In the Matter of

Alissalyn L.,

Docket No. D-3480/09

A Person Alleged to be a Juvenile
Delinquent,
Respondent.

-----X

Separate appeals having been taken by the respective respondents from the order of the Family Court, Bronx County, entered on or about February 2, 2010,

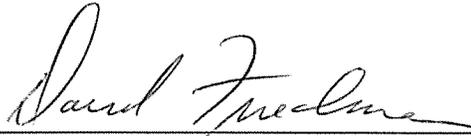
And the aforesaid respondents having moved for a stay of further proceedings in said Family Court pending hearing and determination of the aforesaid appeals,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

Dated: New York, New York

4-7-10



David Friedman
Associate Justice

Entered: **APR 15 2010**

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

BEFORE: Hon. JAMES M. MCGUIRE
Justice of the Appellate Division

-----X
The People of the State of New York,

Respondent, M- 1085A
Ind. No. 40165C/2005

-against-

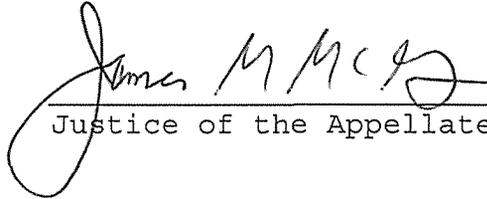
FREDDY RODRIGUEZ,
Defendant-Appellant.

CERTIFICATE
GRANTING LEAVE TO APPEAL
TO THE COURT OF APPEALS

-----X

I, JAMES M. MCGUIRE, a Justice of the Appellate Division, Supreme Court, First Department, do hereby certify that in the record and proceedings herein* questions of law are involved which ought to be reviewed by the Court of Appeals and pursuant to CPL 460.20, it is

ORDERED that permission hereby is granted to the above-named respondent to appeal to the Court of Appeals. The order of this Court entered on April 1, 2010 (M-1085) is herewith recalled and vacated.


Justice of the Appellate Division

Dated: April 9, 2010
New York, New York

ENTERED: **APR 15 2010**

*Description of Order:

Supreme Court, Bronx County, entered on June 30, 2008.
App. Div., First Dept., Appeal No. 1058, affirmed judgment on
February 16, 2010.

Notice: Within 10 days from the issuance of this certificate, a preliminary appeal statement must be filed with the Clerk of the Court of Appeals pursuant to Rule 500.9 of the Court of Appeals Rules.

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST JUDICIAL DEPARTMENT

BEFORE: Karla Moskowitz
Justice of the Appellate Division

-----x
In the Matter of

Oneil C.,

A Child Under the Age of 18 Years
Alleged to be Neglected.

Administration for Children's Services,
Petitioner-Appellant,

M-1235
Docket No. N3718/10

Yolanda R.,
Respondent-Respondent,

Hugh R.,
Respondent-Respondent,

Patricia B.,
Non-Party Respondent.

Steven Banks, Esq., The Legal Aid
Society, Juvenile Rights Division,
Law Guardian for the Child.

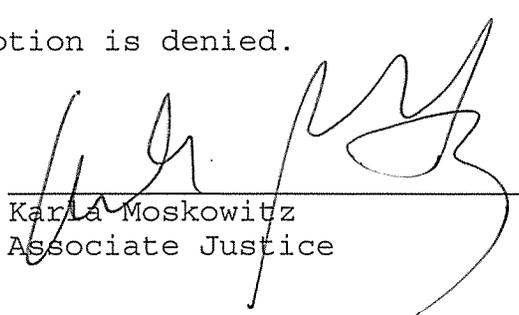
-----x
An appeal having been taken to this Court from the order of
the Family Court, Bronx County, entered on or about March 4,
2010,

And petitioner-appellant having moved for a stay of the
order pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the
motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

Dated: New York, New York
April 8, 2010



Karla Moskowitz
Associate Justice

Entered: **APR 15 2010**

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

APR 15 2010

Luis A. Gonzalez, Presiding Justice,
David B. Saxe
James M. Catterson
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----x

In the Matter of Max D. Antoine,
a suspended legal consultant:

Departmental Disciplinary Committee M-4257
for the First Judicial Department,
Petitioner,

Max D. Antoine,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Max D. Antoine, was admitted as a licensed legal
consultant in the State of New York at a Term of the
Appellate Division of the Supreme Court for the Second
Judicial Department on May 3, 2006.

Alan W. Friedberg, Chief Counsel, Departmental
Disciplinary Committee, New York
(Kevin E.F. O'Sullivan, of counsel), for petitioner.

Respondent pro se.

M-4257 (October 13, 2009)

IN THE MATTER OF MAX D. ANTOINE, A SUSPENDED LEGAL CONSULTANT

Per Curiam

Respondent Max D. Antoine, a foreign attorney, was admitted to practice law in Haiti on May 13, 1997. On May 3, 2006, he was admitted by the Appellate Division, Second Judicial Department, to practice as a licensed legal consultant. At all times relevant to this proceeding he maintained an office within the First Judicial Department.

Individuals licensed to practice as legal consultants in this State are subject to professional discipline in the same manner and to the same extent as members of the bar in this State (see Rule at 22 NYCRR 603; Rules of the Court of Appeals at 22 NYCRR 521.5; Lawyer's Code of Professional Responsibility).

In April 2007, the Departmental Disciplinary Committee moved to seek the immediate revocation of respondent's license to practice as a legal consultant in New York on the ground of uncontested professional misconduct. By order entered October 23, 2007, this Court found that summary revocation of a license was not permitted, and instead, immediately suspended respondent from practice as a legal consultant in the State of New York, until such time as disciplinary matters pending before the Disciplinary Committee had concluded.

Thereafter, the Committee filed six charges against

respondent. Charge One alleged that by repeated efforts to represent himself as a New York lawyer rather than as a legal consultant, respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of DR 1-102(A)(4). Charge Two alleged that by repeatedly holding himself out as a New York attorney, and by directly disobeying the Court's restriction on his practice, respondent engaged in conduct that is prejudicial to the administration of justice in violation of DR 1-102(A)(5) and 22 NYCRR 521.3(f). Charge Three alleged that by failing to timely file an affidavit of compliance, respondent engaged in conduct that is prejudicial to the administration of justice in violation of DR 1-102(A)(5) and 22 NYCRR 603.13(f). Charge Four alleged that by continuing to use the corporate name "American Corporate Society" in connection with his own, respondent used a trade name in violation of DR 2-102(B) and 22 NYCRR 521.3(g). Charge Five alleged that by using a business card listing his practice as being specialized in several areas, respondent represented his "practice" as being specialized in particular fields of law, in violation of DR 2-105(A). Finally, Charge Six alleged that by violating the above disciplinary rules, respondent demonstrated a lack of good moral character and general fitness required for a member of the bar of this State, and therefore, provides grounds for revocation of his license under 22 NYCRR 521.1(a)(3).

Respondent denied all charges. In July 2008, a Referee held a two day hearing at which respondent testified on his own behalf. In a report, the Referee sustained only Charges One and Six, recommending revocation of respondent's license as a mandatory sanction pursuant to Rules of the Court of Appeals 22 NYCRR 521.8. A Hearing Panel recommended modifying the Referee's report to the extent of also sustaining Charge Two in part.

The Disciplinary Committee now seeks an order confirming the findings of fact and the sanction recommendation of the Hearing Panel, and revoking the license of respondent. Under Court of Appeals Rule 521.3, a person licensed to practice as a legal consultant may render legal services in New York subject to certain limitations: he cannot represent others in court; he cannot render professional legal advice on the law of this state or of the United States except on the basis of advice from someone duly qualified to render professional legal advice in this State; and he cannot in any way hold himself out as a member of the bar of this State. A legal consultant may use the "title" authorized in the foreign country of his admission to practice, but only "in conjunction with the name of such country" (22 NYCRR 521.3[g][iii]). Additionally, the title of "legal consultant" may be used in conjunction with the words "admitted to the practice of law in (name of foreign country of his admission to practice)" (22 NYCRR 521.3[g][iv]).

The Referee concluded that on May 10, 2006, only one week after being licensed as a legal consultant in New York, respondent applied for admission to the U.S. Supreme Court. In response to the application question, "State court(s) of last resort to which you are admitted to practice, and date(s) of admission," he answered "May 3, 2006, New York Supreme Court, Second Department, New York State." In addition, he attached copies of membership cards from various state and other bar associations to the application. On the same day, respondent applied for admission to the U.S. Court of Appeals for the Armed Forces. In response to the application question asking what is the "highest State court in which applicant has been admitted to practice," respondent again answered "Supreme Court of New York." Similarly, respondent answered "Licensed by the Supreme of New York" when asked where he was presently engaged in the practice of law. Attached to his application were letters of reference stating that respondent was an "active member in good standing of the following law societies and state authorities" including four bar associations, with "Bar no[s]." The letter included the following text, "Licensed by the New York Supreme Court, Second Department, New York State Bar Association NYSBA Bar no. 69-2242 (518)463 3200." The number listed is in actuality the number that appears on respondent's New York State Bar Association membership card. The Referee concluded that respondent's use of

the number misleadingly suggested it was an official number assigned to him by the Office of Court Administration.

Before the Referee, respondent did not deny he provided such answers, rather, he initially testified that he did include the words "foreign legal consultant" on his applications before they were submitted, and that the copy offered by the Committee had been altered by someone else without his knowledge. However, he did not produce a copy of the allegedly correct versions of the documents. Moreover, he provided a different explanation when previously questioned by the Committee, stating he omitted the words "legal consultant" because the forms did not leave sufficient space to include them.

Accordingly, the Referee concluded respondent stated he was licensed to practice in New York, and nowhere indicated he was a legal consultant, the limitations of his practice, or that he could not hold himself out as a member of the bar of this State. (22 NYCRR 521.3[a], [f]). Thus, respondent committed intentional fraud in violation of DR 1-102(A)(4) and Charge One was sustained. The Hearing Panel agreed with the Referee in sustaining Charge One.

While the Referee did not sustain Charge Two, the Hearing Panel did sustain the second Rule violation alleged therein, namely 22 NYCRR 521.3(f) which prohibits a legal consultant from "in any way holding himself or herself out as a member of the bar

of this State". In doing so, the Panel stated it did not find this charge duplicative of Charge One, finding it a separate and distinct violation for purposes of liability and sanction. (see *Matter of Race*, 296 AD2d 168 [2002]). Accordingly the Panel disaffirmed the Referee's finding insofar as it did not sustain Charge Two to the extent of finding that respondent held himself out as an attorney in violation of Rule 521.3(f).

Charge Six stated that by violating the Disciplinary Rules as aforementioned, respondent demonstrated a lack of "good moral character and general fitness [which is required] for a member of the bar of this State" (NYCRR 521.1(a)(3)), and, therefore, provides grounds for revocation of his license as a legal consultant under NYCRR 521.8. Both the Referee and Hearing Panel sustained this charge, noting that the omission of the limits of his license appeared to be motivated by self-promotion. The Referee stated that while "self-promotion is, of course, not itself evidence of a lack of good moral character," it was unquestionable that respondent went "beyond mere hype; his efforts were informed by an intent to mislead and deceive, the deliberate avoidance of any references to the limitations imposed on his license." The limited case law involving revocation of legal consultants' licenses is unlike the case at bar, as it involves consultants who were found to have engaged in the actual practice of law (See *Matter of Peluso*, 43 AD3d 155 [2007] [legal

consultant resigned in face of 35 charges that he prepared legal instruments for clients, represented buyer and sellers at real estate closings, and impermissibly rendered professional legal advice]; *Matter of Zakaria*, 39 AD3d 128 [2007] [legal consultant admitted she performed legal services]; *Matter of Pinto*, 151 AD2d 157 [1989] [consultant exceeded his scope of practice by advertising services as an attorney and entering into a partnership to practice law without disclosing to his partner his status as a consultant]. However, here, the Referee correctly concluded that respondent's violations were not accidental but a deliberate attempt to mislead and deceive. The Referee determined that respondent repeatedly sought to delay the hearing, filed application to the Appellate Division challenging the proceedings and claimed but did not prove medical conditions impairing his ability to proceed. Thus, he found that while respondent had been suspended for a year he did not seem "to have learned any lessons from that interim penalty" and as such, revocation as permitted under Rule 521.8 appeared to be the only appropriate sanction.

The record supports sustaining Charges One, Two and Six as found by the Hearing Panel. Respondent intentionally misrepresented his license to practice as a legal consultant on various applications and forms submitted to courts by not qualifying his "admission" status, and therefore, falsely and

impermissibly held himself out as a member of the bar of this State. By engaging in such misconduct, we find that the respondent lacks the good moral character and general fitness requisite for a member of the bar of this State (22 NYCRR 521.1[a][3]).

Accordingly, the Committee's petition seeking to confirm the findings of fact, conclusions of law and determination of the Hearing Panel is granted, and respondent's license as a legal consultant is revoked.

All concur.

Order filed.

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

APR 15 2010

Peter Tom,	Justice Presiding,
David B. Saxe	
David Friedman	
John W. Sweeny, Jr.	
Helen E. Freedman,	Justices.

-----x

In the Matter of Brenna L. Stewart,
(admitted as Brenna Lynne Stewart),
an attorney and counselor-at-law:

Departmental Disciplinary Committee for the First Judicial Department, Petitioner,	M-5209
--	--------

Brenna L. Stewart,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Brenna L. Stewart, was admitted to the Bar of
the State of New York at a Term of the Appellate Division of
the Supreme Court for the First Judicial Department on
January 23, 1995.

Alan W. Friedberg, Chief Counsel, Departmental
Disciplinary Committee, New York
(Kim Petersen, of counsel), for petitioner.

Hinshaw & Culbertson, LLP (Hal R. Lieberman, of counsel),
for respondent.

M-5209 - December 9, 2009

In the Matter of BRENNNA L. STEWART, an Attorney

PER CURIAM

Respondent Brenna L. Stewart was admitted to the practice of law in the State of New York by the First Judicial Department on January 23, 1995, under the name Brenna Lynne Stewart. During some of the time relevant to this proceeding, respondent maintained a law office within the First Judicial Department.

On September 3, 2008, respondent pleaded guilty to one count of petit larceny in violation of Penal Law § 155.25, a class A misdemeanor, in full satisfaction of all charges brought against her for providing a false document, in 2005, to her then employer, the Bronx Leadership Academy II, a public school. Her purpose was to receive paid leave to which she would have otherwise not been entitled. On October 10, 2008, she was sentenced to a one-year conditional discharge.

By unpublished order entered March 20, 2009, we deemed the offense of which respondent was convicted to be a "serious crime" pursuant to Judiciary Law § 90(4)(d) and directed a Hearing Panel of the Disciplinary Committee to conduct a hearing on the appropriate sanction.

The Hearing Panel held a hearing and respondent, represented by counsel, and seven character witnesses testified. Respondent's treating psychologist also testified. The Panel heard evidence that respondent had paid the Department of

Education back all sums owed for leave taken for which she should not have been paid as well as evidence of plaintiff's extensive pro bono legal and community service. The Panel also considered the convergence of personal, medical, financial and emotional problems upon her at the time of her misconduct, as well as the remorse that she showed for submitting the altered death certificate in order to improperly obtain bereavement leave, and that restitution had been made. The Hearing Panel recommended a suspension of six months, citing *Matter of Vasquez*, 1 AD3d 16 (1st Dept. 2003).

The Departmental Disciplinary Committee now moves for an order pursuant to 22 NYCRR § 603.4(d) confirming the findings of fact and conclusions of law set forth in the Hearing Panel's report, and suspending respondent from the practice of law for not less than six months. Respondent requests that this Court accept the Hearing Panel's recommendation and impose "no more" than a six-month suspension. We agree that, under all of the circumstances here, a six-month suspension is appropriate.

Accordingly, we grant the Committee's motion to confirm the Hearing Panel's findings of fact and conclusions of law and suspend respondent from the practice of law for a period of six months.

All concur.

Order filed.

PM ORDERS

ENTERED

APRIL 13, 2010

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 13, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
James M. McGuire
Karla Moskowitz
Rolando T. Acosta
Leland G. DeGrasse, Justices.

-----X

The Plaza PH2001, LLC,
Plaintiff-Appellant,

-against-

Plaza Residential Owner LP, et al.,
Defendants-Respondents.

M-970

M-1319

Index No. 602673/08

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 17, 2009 (mot. seq. no. 001),

And defendants-respondents having moved to strike certain portions of plaintiff-appellant's record on appeal and brief, and for related relief (M-970),

And plaintiff-appellant having cross-moved to include in the record the material defendants seek to strike (M-1319),

Now, upon reading and filing the papers with respect to the motion and cross motion, and due deliberation having been had thereon, it is

Ordered that defendants' motion (M-970) is granted to the extent of striking pages 113-169 of appellant's Record on Appeal, the final paragraph of page 14 of appellant's brief, and Point III of appellant's brief, and appellant is directed to physically delete the aforesaid material from the record and brief served herein with 10 days of the date of entry hereof. The stay of release of funds in escrow pursuant to the order of this Court entered on December 29, 2009 (M-5296), is continued, pending hearing and determination of the aforesaid appeal. Plaintiff's cross motion (M-1319) is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 13, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Eugene Nardelli
James M. McGuire
Karla Moskowitz, Justices.

-----X
Steven Ramirez and Joanne Ramirez,
Plaintiffs-Respondents,

-against-

M-1442
Index No. 117739/06

Tishman Construction Corporation,
et al.,
Defendants,

Levine Builders Inc., sued herein as
Levine Builders and B.C.R.E.-
90 West Street, LLC,
Defendants-Appellants.

-----X

Defendants-appellants having moved for an order staying the trial in the above-entitled action pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about December 18, 2009,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 13, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,
Angela M. Mazzarelli
Rolando T. Acosta
Leland G. DeGrasse
Rosalyn H. Richter, Justices.

-----X
C C Vending, Inc.,
Plaintiff-Appellant,

-against-

M-1355
Index No. 600394/10

Berkeley Educational Services of
New York, Inc.,
Defendant-Respondent.

-----X

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about March 8, 2010 (mot. seq. no. 001), said appeal having been perfected,

And plaintiff-appellant having moved for a preliminary appellate injunction in the nature of Yellowstone relief and a stay of proceedings pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 13, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,
David B. Saxe
David Friedman
Eugene Nardelli
James M. Catterson, Justices.

-----X
Ficus Investments, Inc., et al.,
Plaintiffs-Respondents,

-against-

Thomas B. Donovan,
Defendant-Appellant,

M-1280
Index No. 600926/07

-and-

Private Capital Management, LLC,
et al.,
Defendants.

-----X
Winchester Global Trust Company
Limited,
Petitioner-Respondent,

-against-

Index No. 602752/09

Private Capital Group, LLC,
Respondent,

-and-

Thomas B. Donovan,
Intervenor-Respondent-Appellant.

-----X

Appeals having been taken from orders of the Supreme Court, New York County, entered on or about December 23, 2009 (Index No. 600926/07) and March 2, 2010 (Index No. 602752/09), respectively,

And defendant-appellant, Thomas B. Donovan, having moved for a stay of proceedings in actions wherein movant is a party, pending hearing and determination of the aforesaid appeals,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:

A handwritten signature in black ink, reading "David Apobony". The signature is written in a cursive style and is positioned to the right of the word "ENTER:". The signature is contained within a light blue rectangular box.

Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 13, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Eugene Nardelli
James M. McGuire
Karla Moskowitz, Justices.

-----X
James A. McCay,
Plaintiff,

-against-

M-1070
Index No. 127838/02

J.A. Jones-GMO, LLC,
Defendant,

Columbia University, Columbia Law School
and Century Maxim Construction Corp.,
Defendants-Appellants.

-----X
J.A. Jones Construction Group, LLC,
formerly known as J.A. Jones-GMO, LLC,
Third-Party Plaintiff,

-against-

Third-Party
Index No. 590312/03

Rebar Stel Corp.,
Third-Party Defendant.

-----X
The Trustees of Columbia University in
The City of New York, sued herein as
Columbia University, The Trustees of
Columbia University in The City of
New York, sued herein as Columbia Law
School and Century Maxim Construction
Corp.,

Second Third-Party
Plaintiffs-Appellants,

-against-

Second Third-Party
Index No. 590546/08

Del Savio Construction Corp.,
Second Third-Party
Defendants-Respondents.

-----X

Defendants third-party plaintiffs-appellants Columbia University entities and Century Maxim Construction Corp. having moved for an order staying the trial in the above-entitled action pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about February 26, 2010,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted.

ENTER:

A handwritten signature in black ink, reading "David Apolony". The signature is written in a cursive style and is positioned to the right of the word "ENTER:". A vertical line is drawn to the right of the signature.

Clerk.